

FILED

2012 APR 18 PM 1:22

U.S. DISTRICT COURT  
MIDDLE DISTRICT OF TN

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
DIVISION

Craig Pitts )  
421 Trousdale Ferry Pk. )  
Lebanon, Tennessee )  
Name of Plaintiff 37087 )

v. Tennessee Department of )  
Human Services Division )  
of Rehabilitation Services )

Name of Defendant(s) )

Case No. \_\_\_\_\_  
(To be assigned by Clerk)

Jury Demand ☒ Yes ☐ No

**COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964**

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, and the Civil Rights Act of 1991, for employment discrimination. Jurisdiction is specifically conferred upon the Court by 42 U.S.C. § 2000e-5, or, if the Plaintiff is a federal employee, by 42 U.S.C. § 2000e-16. Relief is sought under 42 U.S.C. § 2000e-5(g) and/or 42 U.S.C. § 1981a(b).

2. Plaintiff, Craig Pitts, is a citizen of the United States and resides at

421 Trousdale Ferry Pk. Lebanon  
Street address City

Wilson Tennessee 37087 615-618-6099  
County State Zip Code Telephone Number

3. Defendant, Tennessee Department of Human Services - Division of Rehabilitation Services resides at, or its business is located at

460 Ninth Ave. N. SMYRNA  
Street address City

Rutherford TN 37167  
County State Zip Code

(If more than one Defendant, list the name and address of each additional Defendant)

David Holmes

460 Ninth Ave. North

Smyrna, TN, 37167

Reserve the right to add other defendants  
At a later time.

4. Plaintiff sought employment from the Defendant or was employed by the Defendant at

460 Ninth Avenue North, Smyrna  
Street address City

Rutherford, TN, 37167  
County State Zip Code

5. Defendant discriminated against Plaintiff in the manner indicated in paragraphs 8 and 9 of this Complaint on or about March 2nd 2010.  
Month Day Year

6. Plaintiff filed charges against the Defendant with the Tennessee Human Rights Commission or the Equal Employment Opportunity Commission charging the Defendant with the acts of discrimination indicated in paragraphs 8 and 9 of this Complaint on or about April 6th 2010.  
Month Day Year

7. The Equal Employment Opportunity Commission or the United States Department of Justice issued a Notice of Right to Sue which was received by Plaintiff on 1/24/2012 4-18-2012.  
Month Day Year, a copy of which Notice is attached.

8. Because of Plaintiff's (1) ☒ race, (2) ☒ color, (3) ☒ sex,  
(4) \_\_\_\_\_ religion, (5) ☒ national origin, the Defendant:

- a. \_\_\_\_\_ failed to employ Plaintiff.
- b. \_\_\_\_\_ terminated Plaintiff's employment.
- c. \_\_\_\_\_ failed to promote Plaintiff.
- d. ☒ retaliated against Plaintiff for having filed a charge of discrimination.
- e. ☒ other. Explain: DIS ability

~~AND BECAUSE I <sup>ever</sup> complained about~~

9. The circumstances under which Defendant discriminated against Plaintiff were as follows:

Defendant David Holmes frequently joked about my disability  
 Defendant David Holmes frequently used racial slurs,  
 intimidation and <sup>made</sup> me fearful of him especially  
 concerning the death of a patient on 3-2-2010.  
 on one occasion he told me "niggers get up  
 tight sometimes and started laughing. I was treated with  
 bias and unfavorably compared to my co-workers by

- (You may use additional paper, if necessary.) DAVID HOLMES - MR. David Holmes  
 Discrimination against me was on going. He stated I would not  
 be at my job much longer.  
 10. The acts set forth in paragraph 8 of this Complaint:

- a. \_\_\_\_\_ are still being committed by Defendant.
- b. \_\_\_\_\_ are no longer being committed by Defendant.
- c. ☒ may still be being committed by Defendant.

WHEN I Reported Fraud  
 HE Retaliated Stating  
 "the women in your  
 Department do not  
 Complain"

David Holmes treated me differently  
 than my peers and showed

Prejudiced actions against me and  
 made my work environment hostile

11. Plaintiff attaches to this Complaint a copy of the charges filed with the Tennessee Human Rights Commission or the Equal Employment Opportunity Commission, which charges are submitted as a brief statement of the facts supporting this Complaint.

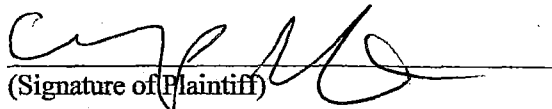
**WHEREFORE**, Plaintiff prays that the Court grant the following relief:

- a. \_\_\_\_\_ direct that Defendant employ Plaintiff, or
- b. \_\_\_\_\_ direct that Defendant re-employ Plaintiff, or
- c. \_\_\_\_\_ direct that Defendant promote Plaintiff, or
- d. \_\_\_\_\_ order other equitable or injunctive relief: \_\_\_\_\_

- e. \_\_\_\_\_ direct that Defendant pay Plaintiff back pay in the amount of \_\_\_\_\_ and interest on back pay;

- f. ☒ direct that Defendant pay Plaintiff compensatory damages: Specify the amount and basis for compensatory damages: \_\_\_\_\_

- g. ☒ direct that Defendant pay Plaintiff punitive damages in the amount of \_\_\_\_\_ because Defendant engaged in a discriminatory practice or practices with malice or with reckless indifference to Plaintiff's federally protected rights, as described in paragraphs 8 and 9 above; and that the Court grant such other relief as may be appropriate, including costs and attorney's fees.

  
(Signature of Plaintiff)



**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**Nashville Area Office**

**JAN 19 2012**

220 Athens Way, Suite 350  
Nashville, TN 37228-9940  
Intake Information Group: (800) 669-4000  
Intake Information Group TTY: (800) 669-6820  
Nashville Status Line: (866) 408-8075  
Nashville Direct Dial: (615) 736-5863  
TTY (615) 736-5870  
FAX (615) 736-2107

Mr. Craig Pitts  
421 Trousdale Ferry Pike  
Lavergne, Tennessee 37087

RE: EEOC Charge No. 494-2010-01298  
Craig Pitts v. Tennessee Rehabilitation Center

Dear Mr. Pitts:

This is to advise that the investigation of your case has been completed.

You alleged that you were discriminated against because of your race, disability and retaliated against.

We reviewed all of the information provided and find that the additional information that you provided in your letter received by the Commission, did not support a violation of the law. The evidence of record indicates that you filed a complaint regarding receipt of a racially offensive email. Upon receiving the complaint, Respondent conducted an investigation and corrected the issues. You were informed of the findings and the appropriate actions taken to resolve the issues.

In March 2010, a student was dismissed as a result of a positive drugs screen, and Respondent held multiple meetings in regards to a chain of custody violation. You indicated due to your disability you did not remember. Respondent requested additional information to determine your ability to perform the essential functions of your position.

Respondent conducted an investigation into the positive drugs screen and determined that you had violated the chain of custody process. While we fully understand that the parties to a charge often have very firm views that the available evidence supports their respective positions, our final determinations must comport with interpretations of the available evidence and the laws we enforce.

The Director's determination along with your Right to Sue is enclosed and concludes the processing of your charge. You can pursue the matter by filing suit in Federal District Court within 90 days from receipt of the Right to Sue.

Sincerely,

*James Foster*

James Foster  
Investigator

Enclosure

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DISMISSAL AND NOTICE OF RIGHTS

To: **Craig D. Pitts**  
**421 Trousdale Ferry Pike**  
**Lebanon, TN 37087**

From: **Nashville Area Office**  
**220 Athens Way**  
**Suite 350**  
**Nashville, TN 37228**



On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.

EEOC Representative

Telephone No.

**494-2010-01298**

**Deborah K. Walker,**  
**Supervisory Investigator**

**(615) 736-2109****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

*Sarah L. Smith*

**Sarah L. Smith,**  
**Area Office Director**

**JAN 20 2012**

Enclosures(s)

(Date Mailed)

cc: **TENNESSEE REHABILITATION CENTER**  
**460 9th Street**  
**Smyrna, TN 37167**

**State of Tennessee Department of Human Services**  
**Office of General Counsel**  
**Citizens Plaza Building**  
**Kim Summers**  
**400 Deadrick Street**  
**Nashville, TN 37243**

**INFORMATION RELATED TO FILING SUIT  
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.  
If you also plan to sue claiming violations of State law, please be aware that time limits and other  
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),  
the Genetic Information Nondiscrimination Act (GINA), or the Age  
Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

**PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):**

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit **before 7/1/10** -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

**ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:**

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

**ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:**


You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

**IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.**

U.S. Equal Employment Opportunity Commission  
Nashville Area Office  
220 Athens Way, Suite 350  
Nashville, TN 37228

OFFICIAL BUSINESS  
Penalty for Private Use \$300



UNITED STATES POSTAGE  
  
02 1M \$ 00.45<sup>0</sup>  
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421 Trousdale Ferry Pike  
Lebanon, TN 37087

37087+4704

